UNITED STATES PATENT AND TRADEMARK OFFICE

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09/894,261	06/28/2001	Gary M. Lewis	2386.2003-002	5056

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

EXAMINER
NGUYEN, DUSTIN

ART UNIT	PAPER NUMBER
2154	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 March 2007*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 June 2001* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-17 are presented for examination.

Continued Examination Under 37 CFR 1.114

2.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 03/12/2007 has been entered.

Specification

3.   Examiner requests Applicants to update status of any related co-pending application as

mentioned in the specification.

Drawings

4.   New corrected drawings in compliance with 37 CFR 1.121(d) are required in this

application because unclear labels. Applicant is advised to employ the services of a competent

patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer

prepares new drawings. The corrected drawings are required in reply to the Office action to

avoid abandonment of the application. The requirement for corrected drawings will not be held

in abeyance.

Response to Arguments

5.   Applicant's arguments filed 03/12/2007 have been fully considered but they are not

persuasive.

6.   As per remarks, Applicants' argued that (1) there is not teaching or suggestion that the

modem receiver described in Yamano detects no data packets are received from another Internet

node over an IP network.

7.   As to point (1), Yamano discloses the use of modems for the transmission of packet-

based information, which is used to access the Internet and the WWW [i.e. IP network] [Figure

9; col 1, lines 24-32; and col 21, lines 14-26].

Claim Rejections - 35 USC § 112

8.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

9.   Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention.

    A.   The claim language in the following claims is not clearly understood:

        I.   As per claims 1, 5, 9, and 13, they are not clearly explain what data is

suspending and resuming from the transmission. In the specification,

pages 8-9, the deframer drops the idle data, but the "idle flag" is generated

and transits over the PCM connection. As such, it is not clearly explain

the suspending and resuming is intended for the idle data or data in

general.

        II.   As per claim 14, it is not clearly explain since the claim recites the idle

data is transmitted over the IP network but the specification, pages 8-9,

discloses that the deframer drops the idle data.

Claim Rejections - 35 USC § 103

10.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11.   Claims 1, 2, 4-6, 8-10, 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Barghouti et al. [US Patent No 6,535,521], in view of Yamano et al. [US Patent No

6,445,731].

12.   As per claim 1, Barghouti discloses the invention as claimed including a method

implemented in an Internet node for reducing Internet bandwidth used for VoIP modem, a first

modem coupled to the Internet node and a second modem coupled to another Internet node [

Figure 1; col 1, lines 59-col 2, lines 13], the method comprising:

        upon detecting idle data received from the first modem over a switched telephone

network to forward to the other Internet node over the IP network in the payload of a data packet

[i.e. as soon as absence of speech is detected by a Voice Activity Detector] [Figure 6; Abstract;

col 3, lines 57-61; and col 8, lines 3-6], suspending transmission of data to the other Internet

node for transmission to the second modem [i.e. upon detection of transition of the call session

from active data to idle-mode when no speech data are being sent] [col 5, lines 11-15]; and

resuming transmission of data to the other Internet node for transmission to the second modem,

upon receiving data from the first modem that is not idle data [i.e. upon detection of speech type

samples, i.e. switch to active-mode] [310, Figure 6; col 7, lines 46-50; and col 8, lines 54-63].

        Barghouti does not specifically disclose

        upon detecting no data packets received from the other Internet node over an IP network

to transmit to the first modem, regenerating idle data at the Internet node to transmit to the first

modem, the regenerated idle data used to maintain a connection between the first modem and the

second modem.

Yamano discloses

upon detecting no data packets received from the other Internet node over an IP network

to transmit to the first modem, regenerating idle data at the Internet node to transmit to the first

modem [i.e. generate idle bit data] [314, Figure 3; 535, Figure 9; col 9, lines 1-15; and col 22,

lines 13-25], the regenerated idle data used to maintain a connection between the first modem

and the second modem [i.e. upon detecting the presence of the idle information, the receiver

enters a standby mode] [col 3, lines 54-57; and col 4, lines 6-17].

It would have been obvious to a person skill in the art at the time the invention was made

to combine the teaching of Barghouti and Yamano because Yamano's teaching of generating idle

data would allow communication devices to maintain the connections to reduce time for re-

establishing connection.

13.   As per claim 2, Yamano discloses the idle data is "FF" [Figure 10; and col 22, lines 13-

34].

14.   As per claim 4, Barghouti discloses wherein the Internet node is an Internet Gateway [

20, 25, 30, Figure 1; and col 1, lines 59-col 2, lines 13].

15.   As per claims 5, 6 and 8, they are rejected for similar reasons as stated above in claims 1,

2, and 4.

16.   As per claims 9, 10 and 12, they are rejected for similar reasons as stated above in claims 1, 2, and 4.

17.   As per claim 13, it is rejected for similar reasons as stated above in claim 1.

18.   As per claim 14, Yamano discloses wherein the idle data is transmitted over the IP network in a modem relay payload of the data packet [col 21, lines 34-55].

19.   As per claim 15, Barghouti does not specifically disclose wherein the data packet includes an RTP header. Yamano discloses wherein the data packet includes an RTP header [i.e. real time information such as voice and video] [col 1, lines 21-31]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Barghouti and Yamano because Yamano's teaching of RTP protocol would allow to transmit variety of traffic data including voice and video.

20.   As per claim 16, Barghouti disclose wherein the idle data transmitted over the GSTN network is encoded in a PCM stream [col 2, lines 22-24 and lines 66-67].

21.   As per claim 17, Yamano discloses establishing a modem connection between the first modem and the second modem [Abstract; and col 1, lines 19-32].

22.   Claims 3, 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Barghouti et al. [US Patent No 6,535,521], in view of Yamano et al. [US Patent No 6,445,731

], and further in view of Cidon et al. [US Patent No 5,343,473].

23.   As per claim 3, Barghouti and Yamano do not specifically disclose wherein the idle data

is "7E". Cidon discloses wherein the idle data is "7E" [col 4, lines 54-60]. It would have been

obvious to a person skill in the art at the time the invention was made to combine the teaching of

Barghouti, Yamano and Cidon because Cidon's teaching would allow to identify and determine

correct data to prevent corruption.

24.   As per claims 7 and 11, they are rejected for similar reasons as stated above in claim 3.

25.   Applicant's arguments with respect to claims 1-17 have been considered but are moot in

view of the new ground(s) of rejection.

26.   A shortened statutory period for response to this action is set to expire **3 (three) months and
0 (zero) days** from the mail date of this letter. Failure to respond within the period for
response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P
710.02, 710.02(b)).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Follansbee John can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dustin Nguyen
Examiner
Art Unit 2154